

**FILED**

**JUN 11 2008**

PATRICK E. DUFFY, CLERK

By DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

CASSANDRA LYNN HOVLAND,	)	CV 06-50-M-DWM-JCL
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER
	)	
CHRIS GARDELLA, et al.,	)	
	)	
Defendants.	)	
_____	)	

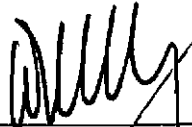
United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendations in this matter on May 15, 2008. The parties did not timely object and so have waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Plaintiff Cassandra Hovland alleges a series of claims arising out her arrest and subsequent incarceration and prosecution in Lincoln County, Montana. Hovland brings federal

and state claims for civil rights violations as well as state common law claims. Defendant Mark Jacobson has filed a motion to dismiss under Fed. R. Civ. P. 12(b)(6). Judge Lynch reviewed the briefing on the motion and concludes that further development of the factual record is necessary. He recommends that the motion be denied without prejudice to allow the parties an opportunity to develop the record. I can find no clear error with Judge Lynch's Findings and Recommendations and therefore adopt them in full.

Accordingly, IT IS HEREBY ORDERED that Defendant Jacobson's motion to dismiss (Doc. No. 93) is DENIED.

DATED this 11<sup>th</sup> day of June, 2008.



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Donald W. Molloy, District Judge  
United States District Court

